

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

FEDERAL TRADE COMMISSION,
Petitioner,

v.

FULLY ACCOUNTABLE, LLC,
Respondent.

Misc. No. 5:18mc54

JUDGE SARA LIOI
Magistrate Judge George J. Limbert

STATUS REPORT

The Federal Trade Commission submits this status report regarding Respondent Fully Accountable, LLC's compliance with the Court's Order dated August 13, 2018. That Order required Fully Accountable to comply in full with the Commission's 2017 civil investigative demand (CID) within 10 days, or by August 23, 2018.

Fully Accountable made a production to the FTC on August 18, 2018, and separately provided a certificate of compliance dated August 23, 2018. After review, FTC staff determined that the production had several deficiencies and failed to reflect responsive information that the FTC had reason to believe existed. Accordingly, to further the investigation and to confirm Fully Accountable's

compliance, the FTC issued two additional CIDs on September 10, 2018, one to Fully Accountable and one to an individual named Sarah Scava.

The CID issued to Fully Accountable asked for testimony from that entity on seven topics.¹ These topics included the company's responses to the original CID issued on September 21, 2017 that was the basis for this proceeding, the company's document preservation efforts, the company's records management system, and its relationships to Sarah Scava and Elevated Health, LLC, an entity the FTC has reason to believe is related to Fully Accountable.² After being served with this CID, Fully Accountable produced additional information to the Commission responsive to the 2017 CID. Thus, Fully Accountable effectively conceded that the responses it previously certified as complete were not, in fact, complete when certified.

The CID issued to Sarah Scava—a former employee of Fully Accountable who was also involved with Elevated Health while a Fully Accountable employee—called for her personal testimony on 13 topics, including her work with Fully Accountable, her involvement with Elevated Health, and the relationships between Elevated Health and several other entities at issue in the investigation.³

Neither Fully Accountable nor Sarah Scava have complied with these CIDs. On October 5, 2018, Fully Accountable filed with the Commission a petition to limit

¹ The FTC's Rules of Practice allow the Commission to seek testimony from an entity through a designated person or persons. *See* 16 C.F.R. § 2.7(h).

² *See* https://www.ftc.gov/system/files/documents/petitions-quash/matter-fully-accountable-llc/1723195_petition_to_quash_or_limit_cid_issued_to_fully_accountable_filed_by_fully_accountable_10-5.pdf.

³ *See* https://www.ftc.gov/system/files/documents/petitions-quash/matter-fully-accountable-llc/1723195_petition_to_quash_or_limit_cid_issued_to_fully_accountable_filed_by_non-party_elevated.pdf. This petition repeatedly asserts, incorrectly, that the CID issued to Sarah Scava was issued to Elevated Health and not to Sarah Scava. To the contrary, the CID was issued directly to Sarah Scava.

or quash the CID it received. That same day, Elevated Health filed with the Commission a petition to limit or quash the CID issued to Sarah Scava. These petitions are presently pending before the Commission, which is due to issue a ruling on each petition by November 19, 2018.⁴ In so ruling, the Commission could grant one or both petitions in part or entirely, thereby limiting or quashing the requests for testimony. Alternatively, the Commission could deny one or both petitions and thereafter direct Fully Accountable or Sarah Scava to appear and provide testimony accordingly.

The FTC respectfully offers to provide an updated status report at a future date of the Court's choosing.

Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

LESLIE RICE MELMAN
Assistant General Counsel for Litigation

/s/ Burke W. Kappler
BURKE W. KAPPLER
Attorney

FEDERAL TRADE COMMISSION
600 Pennsylvania Ave., N.W.
Washington, DC 20580
Tel.: (202) 326-2043
Fax: (202) 326-2477
Email: bkappler@ftc.gov

Dated: November 7, 2018.

⁴ See <https://www.ftc.gov/enforcement/cases-proceedings/petitions-quash/matter-fully-accountable-llc>.

Certificate of Service

I hereby certify that on November 7, 2018, I served the foregoing Status Report by filing it with the CM/ECF system for the Northern District of Ohio, which provides a notification to all counsel appearing in this matter.

/s/ Burke W. Kappler
BURKE W. KAPPLER